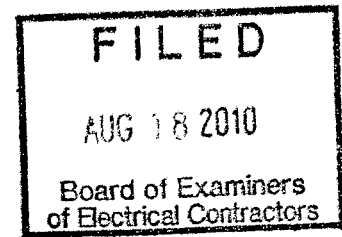


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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF EXAMINERS OF  
ELECTRICAL CONTRACTORS

IN THE MATTER OF THE  
LICENSE OF

JOSEPH C. CHICKACHOP  
License #4847

TO PRACTICE ELECTRICAL  
CONTRACTING IN THE STATE  
OF NEW JERSEY

Administrative Action

FINAL ORDER  
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Examiners of Electrical Contractors ( "the Board") upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a licensed electrical contractor in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. On July 12, 2006, a Final Order Of Discipline was filed by the Board, requiring respondent to pay a civil penalty in the total amount of \$3,500.00 within fifteen (15) days following entry of the Order.

3. The basis for the action was the Board's finding of professional misconduct in connection with respondent's failure to timely cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3 and N.J.S.A. 45:1-21(e). Specifically, respondent repeatedly failed to respond to a Board request to provide answers to a Demand for Statement in Writing Under Oath. The Demand For Statement in Writing Under Oath sought answers to questions concerning consumer complaints received by the Board.

4. The Final Order of Discipline was served on respondent's attorney, Mark W. Catanzaro, via certified and regular mail. The Final Order of Discipline was served on respondent July 17, 2006 at his address of record with the Board as evidenced by receipt of a signed certified post card bearing a signature.

5. The Board received a letter, dated August 9, 2006, from counsel for respondent acknowledging receipt of the Final Order of Discipline by respondent. The letter also stated that respondent gave Mr. Catanzaro a check made payable to the State of New Jersey in the sum of \$3,500.00 in satisfaction of the civil penalty ordered in the July 12, 2006 Final Order of Discipline. However, the check was not forwarded to the Board. Instead, Mr. Catanzaro questioned the Board's authority to impose a civil penalty under the Uniform Enforcement Act. Mr. Catanzaro requested that the Board provide him with a specific reference that allows for the imposition of a civil penalty so that he could advise respondent.

6. In response to Mr. Catanzaro's August 9, 2006 letter, the Deputy Attorney General counseling the Board forwarded a letter dated August 10, 2006 citing N.J.S.A. 45:1-22(b) as the Board's authority to impose civil penalties. The letter was sent to Mr. Catanzaro via facsimile and regular mail.

7. To date, the Board has not received the \$3,500.00 civil penalty that is required to be paid by respondent pursuant to the terms of the July 12, 2006 Final Order of Discipline. Although Mr. Catanzaro represented in his letter dated August 9, 2006, that respondent had furnished him with a check made payable to the State of New Jersey in the amount of \$3,500.00, payment of the civil penalty was never provided to the Board.

8. On September 16, 2009, the Board sent a letter to Robert J. Incollingo, Esq., counsel for respondent, requesting, pursuant to a Board investigation, that respondent forward to the Board copies of W-2 income tax forms for all of his employees for the last five years. The letter stated that a response was to be provided within ten (10) days. A copy of this letter was also sent to respondent at his address of record with the Board.

9. Respondent failed to provide the Board with the requested W-2 forms within the required ten (10) day period. Instead, the Board received a letter from Mr. Incollingo, dated October 9, 2009. In the letter, Mr. Incollingo stated that he had been "excused" from further representing respondent. Mr. Incollingo acknowledged receiving the request from the Board for the W-2 forms. Mr. Incollingo also stated that he had conferred with respondent regarding the request for the W-2 forms, as well as Board requests for other information. According to Mr. Incollingo, a copy of his October 9, 2009 letter was provided to respondent.

10. On January 20, 2010, respondent appeared before the Board for an investigative inquiry concerning several consumer complaints, as well as his failure to provide the W-2 forms. During the inquiry, when asked why he failed to provide the W-2 forms when required, respondent acknowledged that he failed to comply with the Board's

request and appeared to cite the economy as the reason for his failure to provide the documents.

11. A review of respondent's file reveals a prior disciplinary history in addition to the July 12, 2006 Final Order of Discipline. Respondent's prior disciplinary history includes a Settlement Agreement signed in December of 2001, a Consent Order filed on September 3, 2008 and a Final Order of Discipline filed on May 20, 2009.

#### CONCLUSIONS OF LAW

1. Respondent's failure to pay the \$3,500.00 civil penalty in accordance with the terms of the July 12, 2006 Final Order of Discipline, constitutes a violation of N.J.A.C. 13:45C-1.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) for professional misconduct.

2. Respondent's failure to timely provide the Board with the requested W-2 forms constitutes a failure to cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) for professional misconduct. Respondent is subject to an enhanced sanctions, pursuant to N.J.S.A. 45:1-25, by virtue of having committed a subsequent violation of failing to cooperate with the Board.

#### DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline provisionally suspending respondent's license to engage in electrical contracting in the State of New Jersey for six (6) months, as well as provisionally imposing a public reprimand, was entered on April 7, 2010 and a copy was forwarded to respondent at the last known address on file with the Board by regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day

following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefore.

In response to his receipt of the Provisional Order of Discipline, respondent submitted a payment in the amount of \$3,500.00. Presumably, this payment was in satisfaction of the outstanding \$3,500.00 that was due pursuant to the Final Order of Discipline dated July 12, 2006. Respondent did not submit a written request for a modification or dismissal of the Findings of Fact or Conclusions of Law contained in the Provisional Order of Discipline.

Respondent has finally satisfied the requirements of the July 12, 2006 Final Order of Discipline, and has also satisfied the Board's request to provide the W-2 forms pertaining to his employees, as required in the September 16, 2009 letter. However, the Board notes that respondent did not make the \$3,500.00 payment until the filing of the April 7, 2010 Provisional Order of Discipline. Additionally, respondent did not provide the requested W-2 forms until he was required to appear before the Board. Therefore, in the absence of a request for modification or dismissal, the Board has voted to finalize the Provisional Order of Discipline. The Board sustains the finding that respondent failed to originally cooperate with a Board order in violation of N.J.A.C. 13:45C-1.4, and failed to originally cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3. The Board should not have to expend resources by taking formal action in order to compel respondent to comply with an investigatory request or a prior order.

In voting to finalize the Provisional Order of Discipline, as written, the Board also noted respondent's long history of prior disciplinary action which includes the Settlement Agreement signed in December of 2001, the July 12, 2006 Final Order of Discipline, a Consent Order filed on September 3, 2008 and a Final Order of Discipline filed on May 20, 2009. Additionally, respondent did not submit anything at all in the way of mitigating information, nor did he object to the provisional findings. Accordingly, it is determined that further proceedings were not necessary and that the Provisional Order of Discipline should be made final.

ACCORDINGLY, IT IS on this *18<sup>th</sup>* day of *Aug.*, 2010

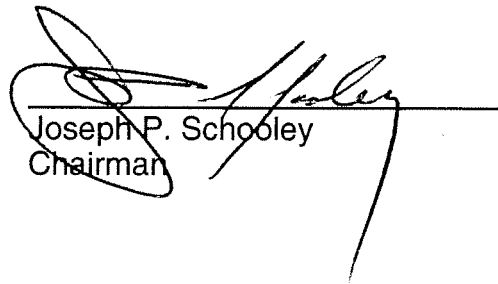
ORDERED that:

1. Respondent's license to engage in electrical contracting is hereby suspended for six (6) months. Respondent's suspension shall commence ten days following respondent's receipt of a Final Order of Discipline. On the tenth day following receipt of the Final Order of Discipline, respondent shall furnish his pressure seal to the Board.

2. Respondent shall refrain from engaging in practice as an electrical contractor in the State of New Jersey and shall not represent himself as an electrical contractor until such time as his license is reinstated.

3. A public reprimand is hereby imposed upon respondent for his failure to comply with the July 12, 2006 Final Order of Discipline, in violation of N.J.A.C. 13:45C-1.4, as well as respondent's failure to cooperate with Board investigations in violation of N.J.A.C. 13:45C-1.2, -1.3, which is deemed a second violation pursuant to N.J.S.A. 45:1-25.

STATE BOARD OF EXAMINERS  
OF ELECTRICAL CONTRACTORS



Joseph P. Schooley  
Chairman